



# InSite

FALL / WINTER 2004

NEWS FROM THE BOARD OF OPTOMETRY

CALIFORNIA STATE BOARD OF OPTOMETRY 400 R STREET SACRAMENTO CA, 95814 (916) 323-8720



*Optometry Board members at May 2003 swearing-in ceremony in Sacramento*

## BOARD MEMBERS

EDWARD HERNANDEZ, OD,  
*Board President*

LUPE DE LA CRUZ,  
*Board Vice-President*

PAGE YARWOOD, OD, MS, FAAO,  
*Board Secretary*

LEE GOLDSTEIN, OD, MPA

GREG KAME, OD, FAAO

FRED NARANJO

AUDREY NODA

DANIEL POLLACK, OD

MARY ROSAS

SUSY YU, OD, MBA, FAAO

*More about the Board on page 8.*

## BOARD UPDATE

In a historic event, the reconstituted Board of Optometry met with entirely new members for the first time on May 22, 2003. This meeting was significant because the previous Board had been the subject of a rigorous review by the State Legislature that resulted in the Board being sunset and then reconstituted effective January 1, 2003.

The new Board is made up of six professional members and five public members. With ten of the eleven members serving, the Board now enjoys a quorum and has held regular meetings throughout 2003 and 2004. In June of 2003, Dr. Edward Hernandez, OD, was elected to serve as Board President. Lupe De La Cruz was elected Vice-President and Dr. Page Yarwood, OD, was elected Secretary. The officers were re-elected in April of 2004 and are now serving a second term.

## Future Meeting Dates

FEBRUARY 17, 2005

SAN FRANCISCO

MAY 19, 2005

SACRAMENTO

AUGUST 18, 2005

FULLERTON

NOVEMBER 17, 2005

ONTARIO

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## PRESIDENT'S REPORT



*Edward P. Hernandez, OD  
Board President*

### DEAR COLLEAGUES,

I was honored to be appointed to serve as an original member of the reconstituted Board. The appointment was especially meaningful because I had worked so hard to save the Board from being eliminated by the Legislature. I was further honored when my fellow Board members twice elected me to serve as President of the Board. My first term as Board President was a rewarding experience and I look forward to serving a second term.

The members of the Board bring a wide range of perspective and experience. Both private and corporate practice are represented by the professional members, some of whom have been active in the public arena for many years. The public Board members bring experience in business and public service ranging from advocating for seniors and minority groups to professional experience in health delivery systems.

From the beginning, we have been dedicated to moving the Board in a positive and productive direction – and we have succeeded. I am most proud that we have finally implemented the practice expansion I negotiated in the legislature in 2000. As a result, over 50 optometrists are now certified to independently diagnose and treat primary open angle glaucoma. Many more optometrists are working toward meeting the certification requirements.

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The following is a brief list of other Board accomplishments from the past year and half:

- Sponsored AB 2464, which takes effect on January 1, 2005 and makes it easier for optometrists who are TPA certified to fulfill their continuing education (CE) requirements
  - Took action on numerous disciplinary matters, including cases involving fraud, patient harm and sexual misconduct
  - Approved regulation changes that clarify CE requirements, define optometric assistants, and conform regulatory language with that of current laws
  - Adopted an entirely new strategic plan
- 

The next review of the Board of Optometry by the Joint Legislative Sunset Review Committee has been postponed to 2009. I believe the 4-year extension is due in part to the positive steps the Board has taken since being reconstituted.

In the coming year, we plan to take advantage of the unique opportunity created by the Governor's desire to "blow up the boxes" and make state government more efficient. We will continue our review of the laws that govern optometric practice in California with particular focus on our licensing program to determine if there is a less cumbersome regulatory model that maintains our public protection mandate. I invite all interested parties to join in the deliberations and attend future Board meetings.

I am committed to keeping our momentum. With the assistance of our dedicated Board members and staff, the Board of Optometry will continue to evolve into a model organization that is responsive and relevant to the citizens of California.

Sincerely,  
EDWARD P. HERNANDEZ, OD,  
*Board President*

## NEW LAWS

### Prescriptions must be given to Patients

#### Federal Law Preempts State Law

The Federal Trade Commission adopted the Ophthalmic Practice Rules (Eyeglass Rule) and the Contact Lens Rule, which set forth national requirements for the release of eyeglass and contact lens prescriptions. According to these Rules, all prescriptions for corrective lenses must be released to patients, whether requested or not. The Federal Contact Lens Rule preempts California law regarding the release of contact lens prescriptions, including exceptions carved out for specialty lenses and the 2 p.m. deadline established in AB 2020 (Chapter 814, Statutes of 2002).

The following is a brief description of the prescription release requirements:

- Eyeglass prescriptions must be released immediately following the eye exam
- Contact lens prescriptions must be released immediately upon completion of the eye exam or the contact lens fitting (if a fitting is necessary). If specialty lenses must be purchased in order to complete the fitting process, the charges for those lenses can be passed along to the patient as part of the fitting process.
- Contact lens fitting means the process that begins after an initial eye examination for contact lenses and ends when a successful fit has been achieved. In cases of renewal prescriptions, the fitting ends when the prescriber determines that no change in the existing prescription is required.
- If a patient elects to purchase contact lenses from a third party, the seller must verify the prescription before filling it. When requested, optometrists are required to respond to sellers' requests for prescription verification within eight business hours.

The following is a brief description of prescriber and seller obligations under the new Federal Contact Lens Law Rule:

#### PRESCRIBERS MUST

- Provide patients with a copy of their prescription upon completion of the eye exam or the contact lens fitting process (if a fitting is necessary)
- Verify prescriptions to any third-party seller designated by the patient within eight business hours
- Adhere to "passive verification," which means that if the provider does not respond to a verification request within eight business hours, the seller can fill the prescription

#### PRESCRIBERS CANNOT

- Place certain conditions on the release or verification of contact lens prescription
- Require the patient to sign a waiver or release as a condition of verifying or releasing a prescription

#### THIRD-PARTY CONTACT LENS SELLERS MUST

- Receive a copy of the prescription or verify the prescription before selling lenses
- Allow eight business hours for the prescriber to verify the prescription
- Adhere to "passive verification," which means that if the provider does not respond to a verification request within eight business hours, the seller can fill the prescription
- Retain patient records for three years

*The full contact lens law can be view at:*  
<http://www.ftc.gov/os/2004/06/040629contactlensrulefrn.pdf>

## NEW LAWS

### Changes to Optometric Practice Act

#### New Requirements for CE and Receipts

The Board of Optometry sponsored legislation (Assembly Bill 2464, Chaptered by Secretary of State, Chapter 426, Statutes of 2004) which, among other things, eliminates the requirement for TPA certified optometrists to obtain a minimum number of hours in continuing education (CE) subcategories. AB 2464 was signed law and becomes effective on January 1, 2005.

#### New CE Requirements

Effective January 1, 2005, TPA certified optometrists must to obtain 35 hours of CE in the diagnosis, treatment and management of ocular disease **in any combination** of the following areas:

- glaucoma,
- ocular infection,
- ocular inflammation,
- topical steroids,
- systemic medication, or
- pain medication.

#### New Receipt Requirements

AB 2464 amends Business and Professions Code Section 3076 to read:

A licensed optometrist shall deliver to each patient fitted or supplied with lenses a receipt that contains his or her signature and all of the following information:

- (a) His or her place of practice.
- (b) The number of his or her license.
- (c) A specification of the lenses furnished, in accordance with prescription release laws.
- (d) The amount charged for them.

### Change in Schedule III Prescription Requirements

#### New Security Features for Prescription Pads

Senate Bill 151 (Chaptered by Secretary of State, Chapter 406, Statutes of 2003) is a complicated bill that makes substantial changes to California law regarding prescribing controlled substances. Optometrists will be affected by the following passages:

- Effective January 1, 2004 Schedule III controlled substance prescriptions must only be signed and dated by the prescriber.
- Effective January 1, 2005, all Schedules of controlled substance prescriptions must be written on tamper resistant prescription forms. Prescribers must order the new tamper resistant forms from security printer companies that have been pre-approved by the Board of Pharmacy and the Department of Justice. The Board of Pharmacy maintains a list of approved security printers on their Web site at [http://www.pharmacy.ca.gov/security\\_printer.htm](http://www.pharmacy.ca.gov/security_printer.htm).

#### The new forms must have a number of security features including:

- Void protection to prevent duplication or chemical washing to alter prescriptions.
- Watermark on the backside of the prescription with the text "California Security Prescription."
- Thermo-chronic ink that changes color when exposed to heat.
- A description of the security features printed on each prescription form
- Quantity check off boxes
- The preprinted name, category of licensure, license number, and federal controlled substance registration number of the prescribing practitioner.

*Continued on page 5*

## NEW LAWS

*Continued from page 4*

### Other changes effective January 1, 2005 include:

- Pharmacies must report Scheduled III controlled substance prescription information to the Controlled Substance Utilization Review and Evaluation System (CURES).
- Prescribers dispensing Schedule III controlled substances must report those prescriptions to CURES.
- Phone and fax orders for Schedule III drugs are still permitted. Fax orders should be on an ordinary prescription form - not the new tamper resistant forms. Use of the new forms will result in a voided prescription.

For more information: [http://www.pharmacy.ca.gov/info\\_prescribe\\_rph.htm](http://www.pharmacy.ca.gov/info_prescribe_rph.htm)

## Glaucoma Certification

Senate Bill 929 (Chaptered by Secretary of State, Chapter 676, Statutes of 2000) was a hotly contested bill that ultimately expanded the scope of practice for optometrists in California. The bill took effect on January 1, 2001. However, the most substantive element of the bill, which permits qualifying optometrists to independently diagnose and treat primary open angle glaucoma, was not implemented at the time.

The reconstituted Board identified implementation of SB 929 as a top priority and began deliberating proper implementation of a new glaucoma certification at public board meetings in September 2003. In November 2003, the Board voted to implement the glaucoma certification program and optometrists may now apply for and obtain a certificate to independently diagnose and treat primary open angle glaucoma. The board has already issued 50 certificates.

Applications for glaucoma certification can be downloaded from the Board's website at [www.optometry.ca.gov](http://www.optometry.ca.gov).

## Focus on Your Eyes

### A Consumer Guide to Eye Care

The Board has published a new consumer education pamphlet titled, "Focus on Your Eyes – A Consumer Guide to Eye Care."

The brochure includes helpful information such as the benefits of regular eye exams, the difference between optometrists, ophthalmologists, opticians and optometric assistants, consumer tips, and an overview of the consumer services provided by the Board.

The brochure can be downloaded from the Board's Web site at [http://www.optometry.ca.gov/optometry\\_brochure.pdf](http://www.optometry.ca.gov/optometry_brochure.pdf). A Spanish language version is also available.



## Prescription Expiration Dates

Business and Professions Code Section 2541.1 mandates that - unless there is a valid medical reason - spectacle prescriptions shall not expire less than two years from the date of issuance. Federal Contact Lens Rule mandates that - unless there is documented valid medical reason - contact lens prescriptions shall not expire less than one year from date of issuance.



## REMINDERS



### Licensure Requirements

In California, licensed optometrists are required to notify the State Board of Optometry of every location where they practice or intend to practice optometry. A brief explanation of the various licensure requirements are listed below.

#### OPTOMETRIC LICENSE (OPT)

License to practice optometry in California at designated "principal place of practice." May be owner or employee of the designated location.

#### STATEMENT OF LICENSURE (SOL)

Required for every location employed as optometrist in addition to "principal place of practice."

#### BRANCH OFFICE LICENSE (BOL)

Required for second and third optometric practices owned by optometrist.

#### CORPORATE LICENSE (CORP)

Required for all optometric corporations registered with the Department of Corporations under the Moscone-Knox Professional Corporation Act.

#### FICTITIOUS NAME PERMIT (FNP)

Required if fictitious name is used in connection with the practice of optometry.

### License Renewals

The Board issues renewal notices to optometrists approximately three months before the license expiration date. It can take up to eight weeks to process license renewals.

A license that is not properly renewed before the expiration date becomes delinquent on the day after the expiration date. There is no grace period for the expiration of the license. However, there is a 30-day grace period that only applies to the delinquency fee. If a renewal is postmarked less than 30 days after the license expires, the \$25.00 delinquency fee is not required. Otherwise, all late renewals must pay the \$25.00 delinquency fee.

Licensees are encouraged to carefully read the instructions on the renewal notice and return it in a timely fashion.

Failure to properly sign off on CE and CPR requirements will result in the delayed renewal of the license.

### 3 Reasons to Renew Your License on Time

1. Practicing optometry with a delinquent license is a violation of the law and may result in disciplinary action.
2. Many employers, HMOs and credentialing agencies will not allow an optometrist with a delinquent license to practice optometry.
3. The Department of Health Services may suspend Medi-Cal payments for delinquent licensees.

## Recruiting Expert Witnesses

The State Board of Optometry is recruiting licensed optometrists to act as expert witnesses in enforcement cases. Expert witnesses review complaints, investigative reports and other related documents to determine if there is a potential violation of the law. A written report is submitted to the Board, which may be used to support disciplinary actions against optometrists. Strong analytical and writing skills are required.

Interested parties are asked to submit a statement of qualifications for evaluation. Please include education, applicable experience, and area of practice. Statements of qualifications should be submitted to:

BOARD OF OPTOMETRY  
400 R St., Suite 4090, Sacramento, CA 95814

## REMINDERS

### Optometrists Must Report Suspected Child Abuse and Neglect

*California law requires optometrists and many other licensed professionals to report suspected child abuse and neglect to local authorities.*

The Child Abuse and Neglect Reporting Act (CANRA) states that all "mandated reporters," including optometrists, have a legal obligation to report information concerning suspected child abuse or neglect immediately or as soon as possible by telephone and follow up with a written report. Such reports may be submitted to any of the following local government agencies:

- Police Department
- Sheriffs Department
- County Probation Department (if designated by the county to receive mandated reports)
- County Welfare Department

CANRA also protects mandated reporters who report suspected child abuse or neglect from civil or criminal liability. Additional information about CANRA is available at the Department of Justice Web site at <http://caag.state.ca.us/>.

## Board Funding In Jeopardy

Current budget projections indicate that the Board of Optometry Fund will be depleted in June 2007. Without sufficient funds, the Board could be faced with eliminating functions and services, layoffs, or shutting down operations entirely.

Unlike most state programs the Board is self-funded, which means fees collected from licensees and applicants are used to pay Board expenses. Those fees are deposited in the Board of Optometry Fund, which is kept entirely separate from the State's General Fund. Although efforts to reduce the State's General Fund expenditures have impacted Board operations, the Board's budget situation is not linked to State budget crisis. The shortfall was essentially caused by increased costs for statewide services, which the Board has had to absorb. This has caused the Board's annual expenditures to exceed income thereby depleting reserve funds.

A fee increase may be necessary to correct this situation, which would require legislative action. If a fee bill is introduced, the Board will work with the profession to determine an acceptable fee structure.



## MEET THE BOARD / MEMBER PROFILES

**Lupe De La Cruz** has worked for AARP since 1998 and is the Advocacy Manager. He served as the Senior Field Deputy for the Office of Congressman Esteban E. Torres from 1995 to 1999. Mr. De La Cruz is a member of the Consumer Advisory Committee of the Contractor's State Licensing Board and the Consumer Federation of California. He was the past Chair of the Los Angeles County Leadership Council of Aging Organizations from 1999 to 2000 and was the Los Angeles County Reserve Deputy Probation Officer for the City of Long Beach Gang Alternative and Prevention Unit in 1994. Mr. De La Cruz earned a Bachelor of Arts degree from the University of California, Los Angeles.

**Lee Goldstein, OD** has been a self-employed Optometrist for more than 35 years. He was on the Board of the California Optometric Association from 1993 to 2001 and served as its President from 1997 to 1998. Dr. Goldstein has been associated with the American Red Cross since 1976, served as California State Chairman from 1991 to 1996, and is currently serving his second term as a member of the National Board of Governors. He is a member of the Pomona Valley Hospital Medical Foundation. Dr. Goldstein earned Bachelor of Science and Doctor of Optometry degrees from the University of California, Berkeley, and a Masters of Public Administration degree from the University of Southern California.

**Edward P. Hernandez, OD**, and his wife, Diane, (also an optometrist) reside with their family in West Covina. Dr. Hernandez received his Doctorate of Optometry degree from Indiana University School of Optometry in 1986 and a Bachelor of Arts/Science degree from California State University at Fullerton. Since that time, Dr. Hernandez has distinguished himself in the proud profession of optometry.

Dr. Hernandez began his tenure in optometry being named Young Optometrist of the Year by the California Optometric Association (COA) Board of Trustees. In that same year, the Rio Hondo Optometric Society distinguished him as their Optometrist of the Year. He was also recognized as the Key Person of the Year by CAL-OPAC.

Volunteering for the COA has been of particular interest to Dr. Hernandez because of the Association's commitment to assuring the highest quality of health care for the public. He served as COA Secretary/Treasurer and President-elect on his way to becoming elected and serving as President of the Association during the 2000-2001 term. He also served as COA's Legislative Chairman from 2001-2003. Dr. Hernandez played an instrumental role in increasing the scope of optometric practice in California by lobbying for and negotiating the passage of Senate Bill 929 (Chapter 676, Statutes of 2000). His fervent support for the bill resulted in the expanded scope of practice and increased access to qualified ocular health care professionals in California.

**Gregory Kame, OD**, received his Bachelor of Science degree from the University of California at Irvine in 1995. He then graduated in 1999 from the Southern California College of Optometry where his father graduated 37 years earlier.

Dr. Kame is licensed in the use of diagnostic and therapeutic pharmaceutical agents. He has had extensive clinical experience at Nellis Air Force Base Veterans Hospital in Nevada, the Optometric Center of Los Angeles, the Optometric Center of Fullerton, the West Los Angeles Veterans Hospital, and presently at the Los Angeles EyeCare-Optometry Group.

Dr. Kame is a Fellow of the prestigious American Academy of Optometry. He is the President of the Asian American Optometric Society and has served the past few years on its board as the membership chairman. Dr. Kame serves as a director on the Alumni Association Board at the Southern California College of Optometry. He is Treasurer and Secretary of the nationally renowned contact lens group called the Society of Contact Lens Specialists. He is also a member of the Los Angeles County Optometric Society, California Optometric Association, and American Optometric Association. In 2002 Dr. Kame was invited to serve on a National Professional Advisory Panel coordinated by Vistakon, Division of Johnson & Johnson Vision Care, Inc. Dr. Kame is also a Clinical Examiner and Grader for the National



## MEET THE BOARD / MEMBER PROFILES

Board of Examiners in Optometry (NBEO). The NBEO is a nationwide clinical exam that graduating optometric students must pass to obtain their practicing license.

**Fred Naranjo** is the owner and President of Scarborough Insurance Agency, which has offered employee benefits services, since 1987. Prior to this, he worked in the Sales and Marketing Department of Blue Cross of California, where he was also a Special Assistant to the President. Mr. Naranjo is a member of the Committee to Save Saint Luke's Hospital, the San Francisco Latino Democratic Club and the Northern California Employee Benefits Council. He served as the Vice President of the San Francisco Hispanic Chamber of Commerce and as a former member of the San Francisco Healthcare Task Force for the Uninsured. Mr. Naranjo earned a Bachelor of Arts degree from San Francisco State University.

**Audrey Noda** is the Chief Deputy for California Board of Equalization Member, John Chiang. She served as the Deputy Secretary for Appointments in the Governor's office in 2003 and was the Assistant Secretary for Legislation at the California Business, Transportation and Housing Agency from 2001-2003. In 1999, the Governor appointed her Executive Director of the Governor's Commission on Building for the 21st Century, to look at the infrastructure needs for California. Previously, she oversaw the Federal Government Relations program for the Los Angeles County Metropolitan Transportation Authority and was the Chief of Staff to Former State Senator Art Torres. Audrey has a long record of community involvement. She is the past president and current Board Member of the Asian Pacific Women's Center, a transitional housing project for survivors of domestic violence. She earned her Bachelor of Arts degree from the University of California, Los Angeles.

**Daniel Pollack, OD**, has been practicing optometry for more than two decades and has been an Optometrist for Optometrics of Panorama City since 1996. He has been a Union Organizer and Contract Negotiator for

the United Nurses Associations of California since 2001. Dr. Pollack is an active member of Volunteers for Optometric Service to Humanity (VOSH). He earned a Bachelor of Science degree from State University of New York at Stony Brook, and a Doctor of Optometry degree from the State University of New York, College of Optometry.

**Mary Rosas** became interested in joining the California Board of Optometry due to her passion to advocate for California citizens. She began her advocacy work in her community of Contra Costa County with the California Hispanic Chamber in 1986. Her involvement continued and she was hired as a Field Representative by then State Senator Barbara Lee (US Representative 9th CD) in 1997.

Most notably she serves on the Community Advisory Commission for the City of Pittsburg, is Vice Chair of the Latino Leadership Council of Contra Costa County, and is a Board Member of Hispanas Organized for Political Equality (HOPE). Through these organizations Mary has been instrumental in attracting both resources and attention to key issues that impact all communities.

As the 2003 Chair of HOPE's Latina Action Day, a 2-day conference (April 22-23) Mary has partnered with all 12 Latina Legislators to make this a signature event for the organization. This 9th annual conference provides advocacy training for Latinas representing all parts of California. Over 500 Latinas participate in this event and will return to their local communities with essential tools and techniques that mobilize their residents on behalf of critical issues. The major strides that Mary has added to this event is the first-ever "Public Hearing" hosted by the California Commission on the Status of Women, and the Legislative Women's Caucus.

Mary received her Associate of Arts degree in Pre-Law and has a Bachelors Degree in Business Administration. On a personal note, Mary has been married for 29 years to Lou Rosas (former Mayor of Concord, California) and they have two sons, Luis age 28 and Robert, age 27.

## MEET THE BOARD MEMBER PROFILES

**Page Yarwood, OD**, has been a practicing optometrist for more than 25 years. He has been with the Kaiser Permanente Medical Group since 1977 and has been the Chief of Optometry since 1982. Dr. Yarwood has been a clinical instructor at the University of California Berkeley School of Optometry since 2000. He is a Fellow of the American Academy of Optometry and served as the President of the Alameda-Contra Costa Optometric Association, California's largest Optometric Society, and President of the Bay Area Optometric Council. Dr. Yarwood earned Bachelor of Science and Doctor of Optometry degrees from the University of California, Berkeley, and a Master of Science degree from St. Mary's College.

**Susy Yu, OD**, is the Director of Business Strategy and Operations Support for Permanente Vision Services, a division of the Southern California Permanente Medical Group (Kaiser Permanente). Previously, she was the Lead Optometrist at the South Bay Harbor City Medical Center, Kaiser Permanente. Dr. Yu is a Fellow of the American Academy of Optometry. She earned a Bachelor of Arts degree from the University of California, Berkeley, Bachelor of Science and Doctor of Optometry degrees from the University of California, Berkeley School of Optometry, and a Masters in Business Administration degree from the Anderson School at the University of California, Los Angeles.

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## MISSION STATEMENT

The mission of the California Board of Optometry is to assure that Californians have access to appropriate high quality eye and vision care and to implement and promote fair and just laws and regulations promoting the health and safety of consumers.

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## DISCIPLINARY ACTIONS

In the past the Board has included a list of disciplinary actions in the newsletter. However, they are not included in this newsletter. The Board is in the process of reconsidering its complaint disclosure policy, which sets forth the scope of information provided to the public regarding the complaint history of licensed optometrists. It is anticipated that a report on disciplinary actions will be issued after the Board adopts a revised disclosure policy.